

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3612

DO NOT WRITE IN THIS SPACE

Case

32-CA-075781

Date Filed

3/2/2012

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Tesla Motors, Inc.

b. Tel. No. (650) 681-5101

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed

d. Address (Street, city, state, and ZIP code)

500 Deer Creek Road
Palo Alto, CA 94304

e. Employer Representative

(b) (6), (b) (7)(C)

i. Type of Establishment (factory, mine, wholesaler, etc.)
factoryj. Identify principal product or service
automobiles and automotive products

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or those unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In the past six months the Employer has provided employees with wage increases, free lunches, shuttle transportation and other improvements in the terms and conditions of employment in order to discourage support for the Union.

In the past six months the Employer has threatened employees with the closure of its battery plant order to discourage support for the Union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO

4a. Address (Street and number, city, state, and ZIP code)

45201 Fremont Boulevard
Fremont CA 94538

4b. Tel. No. (510) 656-9901

4c. Cell No.

4d. Fax No. (510) 656-9904

4e. e-Mail

jsoldate@uaw.net

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.



Margo A. Feinberg, Attorney

(Print type name and title or office, if any)

Tel. No. (323) 655-4700

Office, if any, Cell No.

Fax No. (323) 655-4488

e-Mail

margossds@aol.com

Address 6300 Wilshire Blvd., Ste. 2000, Los Angeles, California 90048

March 2, 2012

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

DATE FILED: 3/2/2012

CASE NUMBER: 32-CA-075781

ATTACHMENT A TO UNFAIR LABOR PRACTICE CHARGE

In the past six months the Employer has provided employees with wage increases, free lunches, shuttle transportation and other improvements in the terms and conditions of employment in order to discourage support for the Union.

In the past six months the Employer has threatened employees with the closure of its battery plant order to discourage support for the Union.

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March 21, 2012

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BY E-MAIL AND REGULAR MAIL

D. Criss Parker, Esq.
Field Attorney
National Labor Relations Board
Region 32
1301 Clay Street, Room 300-N
Oakland, California 94612-5211

Re: **Tesla Motors, Inc.**
32-CA-075781

Dear Mr. Parker:

This office represents the Charging Party, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America. We are writing to address the timeliness issue raised by the Board.

This issue boils down to a single question: when did employees and the Union have "clear and unequivocal notice" that an unfair labor practice had occurred. *NLRB v. La-Z-Boy Midwest*, 390 F.3d 1054, 1061 n.1, citing *NLRB v. Dynatron/Bondo Corp.*, 176 F.3d 1310, 1317-18 (11th Cir. 1999); *NLRB v. Jerry Durham Drywall*, 974 F.2d 1000, 1004 (8th Cir. 1992). As the Eleventh Circuit explained in *Dynatron/Bondo*:

[T]he 10(b) period does not begin to run until the charging party receives clear and unequivocal notice--either actual or constructive--of the acts that constitute the alleged unfair labor practice, i.e., until the aggrieved party knows or should know that his statutory rights have been violated. As a corollary--and *a fortiori*--when a party deliberately misrepresents or conceals from another the operative facts concerning its actions so that the other party is unable, even through the exercise of due diligence, to discover those facts, the 10(b) period does not begin to run until the deceived party obtains the relevant facts.

Dynatron/Bondo Corp., 176 F.3d at 1317 (citing *John Morrell & Co.*, 304 N.L.R.B. 896, 899 (1991)).

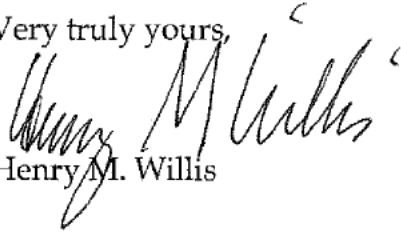
D. Criss Parker, Esq.
March 21, 2012
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The statute of limitations did not begin to run in this case until the workers had had clear and unequivocal notice that the cause of the changes in terms and conditions stemmed from anti-union animus, so that the character of the changes constituted bribes and threats, as opposed to run-of-the-mill changes. Even though the workers were aware of the changes, the basis for the unfair labor practice was not discovered until later.

More particularly, while the timing of these changes may have appeared to be connected a desire on Tesla's part to discourage support for the Union, that connection did not become clear until (b) (6), (b) (7)(C) 2011, when Tesla terminated (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). Earlier expressions of anti-union sentiment on Tesla's part may have supported a suspicion of its motives, but that did not become clear until Tesla went after the Union's (b) (6), (b) (7) organizers.

We therefore urge the Region to pursue its investigation into these unfair labor practices. Please contact Jim Soldate to arrange to take additional statements in support of these charges.

Very truly yours,


Henry M. Willis

HMW (b) (6)

cc: Jim Soldate, UAW, Region 5 (via e-mail)
Gary Jones, UAW, Region 5 (via e-mail)
Jeff Sodko, International Union, UAW (via e-mail)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
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OAKLAND, CA 94612-5224

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April 27, 2012

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JIM SOLDATE, International Representative
INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA
45201 FREMONT BLVD
FREMONT, CA 94538-6317

Re: Tesla Motors, Inc.
Case 32-CA-075781

Dear Ms. Feinberg, Mr. Willis, and Mr. Soldate:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

WILLIAM A. BAUDLER
Regional Director

cc: (b) (6), (b) (7)(C)
TESLA MOTORS, INC.
3500 DEER CREEK RD
PALO ALTO, CA 94304-1317